



Anti-poverty Advocates

June 5, 2013

Representative Michael Callton
Chair
House Financial Services Committee
State of Michigan House of Representatives
326 Anderson House Office Building
124 North Capitol
Lansing, MI 48909

re: Hearing scheduled for Wednesday, June 5, 2013 at
12:00PM concerning a tie-barred package of bills
(HB4764-4767) that would extend the sunset of the 90 day
pre-foreclosure mortgage negotiation law and reduce the
residential redemption period from 6 months to 60 days.

Dear Representative Callton and Members of the House Financial Services Committee:

I am writing in strenuous OPPOSITION to above referenced proposed package of bills which ties a virtually meaningless 6 month extension of the pre-foreclosure negotiation process to a permanent reduction in the redemption period from 6 months to 60 days in Michigan's foreclosure by advertisement process. The legislative analysis for this package of bills produced by the House Fiscal Agency provides no justification whatsoever for shortening the redemption period. Instead it merely describes the proposed change. The analysis also indicates that while the bills do not appear to have any direct fiscal impact, "a fiscal analysis is in process."

In fact, HB 4767 which shortens the redemption period and accelerates Michigan's foreclosure process to force more Michigan families out of their homes more quickly, is likely to have an enormous fiscal impact as more homes are dumped on the Michigan's stressed housing market, a major cause of dropping property values. Adopting this change without any information concerning its fiscal impact is irresponsible.

The bill supporters attempt to make the same discredited argument raised in previous legislative sessions that the shortened redemption period at the end of the foreclosure process is necessary to balance additional time provided in the pre-foreclosure process for delinquent mortgagors to negotiate with banks. However, the the pre-foreclosure negotiation process inserted into the foreclosure by advertisement

statute in 2009, provided no additional time in the typical foreclosure process. It merely codified the existing practices of lenders who generally waited 3 months to foreclose after a default. In fact, for federally insured mortgages, the lenders are required to wait for payments to be two full months in arrears before they begin foreclosure and before the bank turns to the federal government for full payment on its claims. The Michigan legislative change merely required the lenders, if requested by the borrowers, to utilize that period to explore various methods for resolving the deficiency in light of new federal and lender initiated modification programs. It added no new time to the process.

Secondly, as the Michigan Poverty Law Program and the National Consumer Law Center point out, the Michigan foreclosure redemption period is actually shorter than many in the country which range from 3 months to 2 years. The pre-sale process in Michigan is among the shortest in the country where the periods range from 60 days (Michigan) to 420 days.

Thirdly, if as the lenders have indicated in past, they recognize a need for a redemption period for borrowers to refinance, sell or relocate, the current use-rate of redemption periods for these purposes should be considered. A survey of HUD and/or MSHDA foreclosure counselors in Michigan, conducted by the Michigan Foreclosure Task Force, indicated that the overwhelming majority of homeowners make use of the entire 6 month redemption period to refinance, sell or relocate in the current market. This is why realtors in various local markets across Michigan oppose this change. They are on the front lines of the mortgage foreclosure crisis. They know how long it takes to negotiate a successful short sale to settle with the bank and allow the family with an underwater mortgage to successfully relocate and to minimize the impact of federal and private mortgage insurance claims; or in better times, to refinance. In the current tight credit market, we should not be increasing the stranglehold on homeowners by shortening refinance periods. This is also why the proposed amendment which would reduce the redemption period to 4 months (rather than two months) if the property is listed for sale, is not sufficient. If realtors are having difficulty executing short sales under the current six month process, a reduction to four months will not improve their success rates.

Moreover, there is no evidence that homes are deteriorating, being destroyed and losing value during the redemption period. If that is the case it is because the homeowner was driven out and the property is vacant. The data available informs us that the opposite is true; that homeowners are staying in their homes to live out their equitable right of redemption for the six months they are provided, while attempting to accomplish short sales or saving to affordably relocate. It is vacant properties that are being destroyed and losing value. For the most part, those properties have 1 month redemption periods under the statute, which is not changed by the proposed legislation. If the properties become vacant during a longer redemption period because they were occupied during the foreclosure process and the homeowner moved prior to the expiration of the redemption period, the lender has complete control of the property and can secure and sell it. Shortening the redemption period to empty properties sooner, will

only accelerate neighborhood blight. This is not the direction we should be taking in the current crisis and is contrary to the direction of most states which have been searching for methods to slow down the process, avoid vacancies and keep homeowners in their homes for as long as possible, preferably permanently..

This proposal to significantly and permanently shorten the redemption period appears to be offered in exchange for temporarily extending the pre-foreclosure negotiation process for six months. The current available data concerning the success of this process would never justify shortening the redemption period. Very few homeowners are obtaining loan modifications and when their efforts are unsuccessful, their only remaining avenue to avoid homelessness and relocate or to protect their credit and mitigate the lender losses in a short sale is the 6 month redemption period. Homeowners focused on saving their homes and obtaining loan modifications are not engaged in relocation or sale efforts. Even if there were an actual extended process on the front end of foreclosure for obtaining forbearance relief, it would never be fair to shorten the redemption period, since that period is used for other purposes. We are in an era where homeowners, many of whom are senior citizens, are losing their homes of 30, 40 and 50 years. After several weeks of fruitless efforts to save their homes, very often spending large portions of their incomes for temporary mortgage modification programs that the banks refuse to convert to permanent relief, they need every month of the 6 month redemption period provided in our law in Michigan, to save and relocate successfully. If homeowners must choose between letting the pre-foreclosure negotiation process sunset now or continue for another 6 months and shortening the redemption period, the pre-foreclosure amendments of 2009 should sunset.

It is important to note that in Michigan, foreclosures are primarily conducted by advertisement with no automatic court review of the process unless the homeowner stays beyond the redemption period and an eviction becomes necessary. At that point, court action is required and an opportunity is presented for review of the foreclosure. The enormous numbers of fraudulent and otherwise wrongful foreclosures (involving predatory lending tactics, securitized mortgages, robo-signed documents, bank refusals to provide for state and federally mandated relief, and multiple class action bank settlements with federal regulators, detailed in the press over the past five years should not have escaped the notice of this Committee. Under these circumstances, the six month redemption period has been critical for many homeowners who were able to use this period to successfully challenge the legality of these foreclosures, ultimately keeping their homes with modified mortgages.

Finally Michigan's federally funded Step Forward program operated by MSHDA and charged with providing nearly half of billion dollars in federal relief to struggling homeowners, is threatened by these amendments. Funds not spent by the program must be returned to the federal government. Shortened redemption periods and opportunities for court review, decrease the likelihood that these funds are available to support loan modifications for successfully challenged foreclosures. With Michigan's enormous need

for foreclosure assistance as a federally designated "Hardest Hit" state, it would be unconscionable to return these funds to the federal government and deny this relief to Michigan residents.

Sincerely,

A handwritten signature in blue ink, appearing to read "Marilyn Mullane", is written over the typed name.

Marilyn Mullane
Director